

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

GARY GUAJARDO, *et al.*, §
§
Plaintiffs, §
§
v. § CIVIL ACTION H-10-cv-2024
§
FREDDIE RECORDS, INC., *et al.*, §
§
Defendants. §

ORDER

Before the court are the magistrate judge's memorandum and recommendation ("M&R") (Dkt. 308) and plaintiffs, Jose Guzman and Arnold Martinez, on behalf of the estates of Gilbert Martinez, Jr. and Katy Martinez and the Gilbert Martinez Heirs' (collectively "plaintiffs") objections to the M&R (Dkt. 315). The magistrate judge recommended that plaintiffs' claims for breach of contract based on the 1979 Exclusive Songwriter Agreement and 1982 Exclusive Composer Contract be dismissed as barred by the applicable statute of limitations. Having reviewed the M&R, plaintiffs' objections, and applicable law, the court OVERRULES plaintiffs' objections and ADOPTS the M&R in its entirety.

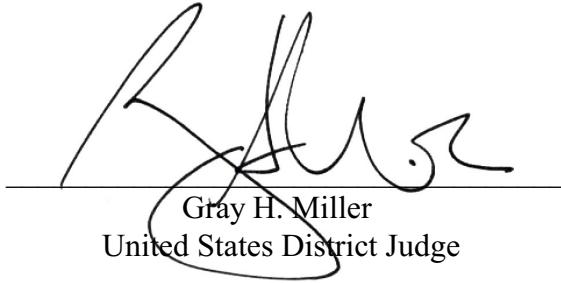
The magistrate judge recommended that plaintiffs' breach of contract claims be dismissed because they were filed more than four years after the causes of action accrued. *See* TEX. CIV. PRAC. & REM. CODE § 16.051. The court found that plaintiffs' testimony indisputably shows that they knew of the facts which led to the accrual of their breach of contract claims more than four years before bringing their claims. Specifically, the uncontested evidence establishes that Guzman and Gilberto Martinez, Jr. were aware that their songs were being released by defendants as early as 1992 and 1985, respectively, and they did not receive compensation for those records. *See* Dkt. 213, Ex.

3; Dkt. 260, Ex. 5. Plaintiffs object to the recommendation in the M&R on the same grounds they asserted in their responses to the motions for summary judgment. The court agrees with the magistrate judge's assessment of the evidence and the law and finds the statute of limitations bars plaintiffs' breach of contract claims.

Therefore, the court ADOPTS the M&R (Dkt. 308) in its entirety. Defendants' motions for summary judgment (Dkts. 213, 260) are GRANTED, and plaintiffs Jose Guzman and Arnold Martinez, on Behalf of the Estates of Gilbert Martinez, Jr. and Katy Martinez and the Gilbert Martinez Heirs' breach of contract claims are hereby DISMISSED.

It is so ORDERED.

Signed at Houston, Texas on March 11, 2015.



Gray H. Miller
United States District Judge